HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 879 Targeted Economic Development
SPONSOR(S): Eisnaugle and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N	Tecler	Kruse
2) Finance & Tax Committee	23 Y, 0 N, As CS	Flieger	Langston
3) Economic Affairs Committee	18 Y, 0 N, As CS	Tecler	Tinker

SUMMARY ANALYSIS

Targeted Economic Development Programs
Current law provides six criteria for the Governor's Office of Tourism, Trade, and Economic Development and Enterprise Florida to review when establishing the list of target industries for the Qualified Target Industry Tax Refund Program.

In 2009, the Legislature created Energy Economic Zone Pilot Program to develop a model area that incorporates energy-efficient land-use patterns, encourages the generation of renewable electricity, and promotes green manufacturing. At the request of the Legislature, the Department of Community Affairs provided recommendations as to the types of incentives that may be offered in the designated zones. Last year, the Department selected two areas, the City of Miami Beach and Sarasota County, to participate in the 2-year pilot project.

CS/CS/HB 879 revises the qualified target industry list by providing that special consideration be given to industries that strengthen the state's position as a global trade and logistics hub. This addition will codify into law global logistics as a qualified target industry and may have the effect of encouraging private sector economic activity in that particular industry.

The bill fully implements the Energy Economic Zone Pilot Program and provides that all incentives and benefits currently included in the enterprise zone program are available to the two designated energy economic zones. The bill also provides that a local governing authority may exempt certain developments in an energy economic zone from regulations relating to a development of regional impact.

The bill takes effect July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Issue background

Qualified Target Industry Tax Refund Program

The Qualified Target Industry Tax Refund Program (QTI) was created by the Florida Legislature in 1994 to attract businesses that offer high-wage jobs, particularly headquarters, to relocate in Florida. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes. Businesses that locate or expand in Florida are eligible for tax refunds of $3,000 per new job created. The tax refund increases to $6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for a $1,000 per job bonus if it pays over 150 percent of the average wage in the area, and a $2,000 per job bonus if it exceeds 200 percent of the average wage. To qualify, the business must secure the local government's support. A local government is required to provide at least 20 percent of the amount of the state's award.

A business' application must be reviewed and certified pursuant to the standard timeline outlined in s. 288.061, F.S. Wage requirements for QTI expansion projects are based solely on new jobs being created, rather than an average of all jobs, current and new.

<u>Key Definitions</u>

A "target industry business" is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida (EFI) as meeting the six statutory criteria in s. 288.106(2)(t), F.S. Those criteria are:

1. Future Growth- Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.
2. Stability- The industry should be stable, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn.
3. High Wage- The industry should pay relatively high wages compared to statewide or area salary averages.
4. Market and Resource Independent- The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources.
5. Industrial Base Diversification and Strengthening- The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products, building regional industrial clusters, or developing strong industrial clusters that include defense and homeland security businesses.
6. Economic Benefits- The industry should have strong positive impacts on or benefits to the state and regional economies.

The "target industry list" is published in EFI's annual Incentives Report and is attached to OTTED's annual Legislative Budget Request. Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI and other stakeholders. The Legislature recently required that the list be reviewed, and if appropriate, revised every third year. The 2011 targeted industry list was recently approved by OTTED and includes six major categories; Cleantech, Life Sciences, Infotech, Aviation/Aerospace, Homeland Security/Defense, and Financial/Professional Services. There is also an “Emerging Technologies” category, which includes global logistics.[1]

Specifically excluded as “target” industries are the following: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.

Customer support services may be considered a target industry business only after the local governing body and Enterprise Florida, Inc., determines that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area. Such conditions include, but are not limited to, low per capita income, high unemployment, high underemployment, and lack of year-round stable employment opportunities.

Another key definition is “average private sector wage in the area,” which can mean one of the following: the statewide average annual private-sector wage, or the average annual private-sector wage in the county or standard metropolitan area (MSA) where the business is locating or expanding. The governing board of the county where the qualified target industry business is to be located has the authority to choose which average private sector wage to use and must notify OTTED and EFI of its choice.

<u>Other Eligibility Criteria</u>
Meeting the definition of “target industry business” is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county.
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area. OTTED may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI. A manufacturing project at any location in the state may qualify for the waiver if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located.
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

No business may receive more than $1.5 million in QTI refunds in a single fiscal year, or more than $5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is $2 million and the overall cap is $7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year; consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.

Taxes eligible for refund under the QTI program are:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;

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[1] Qualified Target Industries for Incentives, http://www.eflorida.com/IntelligenceCenter/download/PSR/SI_Targeted_Industries.pdf (accessed March 31, 2011)

- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3) (a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business (commonly referred to as QDSC) tax refunds is capped at $35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2010-2011, the Legislature appropriated a lump sum of $16,567,473 collectively for the QTI, QDSC, and the High Impact Business Incentive Program.

Wage Calculation

The governing body of the county where the project is located has the responsibility of notifying the Office of Tourism, Trade, and Economic Development and Enterprise Florida of the average private sector wage calculation that shall be used as the wage commitment for a qualified target industry business. The designation of the county has caused confusion for some municipalities that may have QTI projects that do not involve the county.

Global Logistics

Businesses that specialize in global logistics manage the flow of goods and services in the international market. Global logistics begins from the point a product leaves its manufacturer business to its transport within or out of the country. The managed supply chain, includes the following: inventory management, coordination of resources, and the transportation, warehousing, and packaging of manufactured goods. In Florida, trucking is the primary form of goods movement, providing more than 73 percent of all tonnage. Movement over water accounts for approximately 15 percent of all freight flows, followed by rail at 12 percent. Air accounts for less than 1 percent by volume, but holds a significant share of high value goods.[2]

One of EFI's strategic priorities from its 2010-2015 Roadmap to Florida's Future/Strategic Plan for Economic Development is for the state to enhance its capacity as a global hub. The report makes two recommendations related to this effort: 1. Maintain and expand Florida's leadership in international trade. 2. Enhance the competitiveness of Florida's "Hard" and "Soft" infrastructure for international commerce. The report points out that "Florida's multimodal transportation system, a critical component of its success in the international marketplace, is among the most intermodal in the nation with 14 deepwater seaports, 19 commercial airports, nearly 3,000 miles of rail lines, and a highway system that connects ports of entry to interstate and intra-state markets. While impressive, Florida's transportation system is developing significant logistics bottlenecks and reaching capacity constraints."

In December 2010, the Florida Chamber Foundation produced the Florida Trade and Logistics Report. The report found that "[t]rade, logistics, and distribution industries employed 570,000 Floridians in 2008, with an average wage nearly 30 percent higher than the average for all industries in the state. Including spinoff jobs in related industries, trade and logistics support about 1.7 million jobs in Florida, nearly 22 percent of employment in the state." The report encourages the state to take advantage of the changing global trade patterns, represented in part by the future expansion of the Panama Canal, and:

- Capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers, about half of which enter the nation through seaports in other states today;
- Expand export markets for Florida businesses by filling these import containers with Florida goods and using more efficient logistics patterns to attract advanced manufacturing and other export related industries to Florida; and
- Emerge as a global hub for trade and investment, leveraging its location on north-south and east-west trade lanes to become a critical point for processing, assembly, and shipping of goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America.

[2] Florida Trade and Logistics Report, p. 11. December 2010, Florida Chamber Foundation.

The report makes several recommendations to enhance Florida's position in global logistics and trade including: Identify global trade and logistics as a statewide targeted industry and a focus area for Enterprise Florida, Workforce Florida, the Florida Department of Transportation, and other state agencies.

Energy Economic Zone Pilot Program
In 2009, the Legislature authorized the creation of the Energy Economic Zone Pilot Program for the purpose of developing a model area that incorporates energy-efficient land-use patterns, cultivates green economic development, encourages the generation of renewable electric energy, and promotes the manufacturing of "green" products and jobs. Current law directs the Department of Community Affairs (DCA), in consultation with the Department of Transportation (DOT), to implement the pilot program. OTTED and the Florida Energy and Climate Commission are instructed to provide technical assistance to the departments administrating the program.

DCA is authorized to select and designate at least on pilot project as an energy economic zone. The approved pilot project must meet the application criteria and demonstrate a commitment to the goals of the program. Current law provides that an application for a pilot project must include the following:
- The proposed location of the energy economic zone;
- A strategic plan for development and redevelopment in the proposed zone;
- Demonstration that the strategic plan is consistent with the existing local comprehensive plan or includes the proposed amendments necessary to achieve consistency; and
- A list of the necessary comprehensive plan amendments.

The strategic plan must integrate mixed-use and multimodal transportation facilities with a local government's current land use and development patterns. Further, the strategic plan should reduce the reliance on automobiles and encourage certified green building developments, the construction of renewable energy systems, and the creation of green jobs. The strategic plan should also demonstrate how local financial and regulatory incentives will be used in the energy economic zone.

In 2010, DCA selected the City of Miami Beach and Sarasota County to participate in the 2-year pilot project. Miami Beach seeks to use the energy economic zone to improve intermodal, energy-efficient transportation in the city and to explore opportunities to re-use or re-purpose existing infrastructure. Sarasota County's energy economic zone includes two sites. The first is a 1,000-acre undeveloped site and the second is the 7,000-acre Central County solid waste complex, where the county plans to build a methane gas-to-energy conversion plant.

Last year, the Legislature directed DCA and OTTED to develop recommendations on which economic development incentives and statutory revisions were necessary to accomplish the goals of the pilot program. In developing such recommendations, DCA and OTTED were to consider the following:
- Certain fiscal and regulatory incentives;
- Job creation and corporate property tax credits pursuant to ch. 220, F.S.; and
- Refunds and exemptions from the sales and use tax pursuant to ch. 212, F.S.

In February, DCA recommended certain incentives and regulatory revisions that could be applied to energy economic zones, including the following:
- Provide energy economic zones with the same tax incentives available under the state's Enterprise Zone program;
- Make transportation projects in energy economic zones eligible for funds provided though the "Road Fund;"
- Waive the QTI wage requirements for eligible businesses in an energy economic zone;
- Exempt the energy economic zones from meeting certain requirements related to transportation concurrency or a development of regional impact;
- Allow comprehensive planning amendments for energy economic zones to be processed outside of the typical twice-yearly comprehensive plan amendment cycle;
- Include energy economic zones in the Alternate State Review Pilot Program; and

- Encourage local governments to adopt streamlined permitting processes for businesses within energy economic zones.

DCA, with assistance from OTTED, is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2012. The report must evaluate the success of the pilot program and provide a recommendation as to whether the program should be expanded for use by other local governments.

Changes Made By the Bill

Qualified Target Industry Tax Refund Program
The bill revises the definition of "target industry business" to provide that special consideration be given to industries that strengthen the state's position as a global trade and logistics hub. This addition to s. 288.106(2)(t)6., F.S., will codify into law global logistics as a qualified target industry.

The bill also allows the governing board of whichever local government entity is providing local financial support for the project to notify the Office of Tourism, Trade, and Economic Development and Enterprise Florida of the average private sector wage calculation that must be used as the wage commitment for a qualified target industry business.

Energy Economic Zone Pilot Program
The bill revises the pilot program to include all the incentives and benefits currently provided to the enterprise zone program. Only project areas designated as energy economic zones on or before July 1, 2010, are eligible to receive incentives under the pilot program.[3] In order to provide incentives, a local governing authority having jurisdiction over an energy economic zone must, by local ordinance, establish the zone's boundaries, specify applicable energy-efficiency standards, and determine eligibility criteria for the incentives and benefits provided in the energy economic zone.[4] The incentives and benefits become available on July 1, 2012, and include the tax incentives listed below.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone:[5]
  Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid. For projects where at least 20 percent of the employees live in the enterprise zone, the refund is the lesser of $10,000 or 97 percent of the tax paid.

- Business Equipment Used in Enterprise Zones:[6]
  Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid. For projects where at least 20 percent of the employees live in the enterprise zone, the refund is the lesser of $10,000 or 97 percent of the tax paid

- Rural Enterprise Zone Jobs Credit against Sales Tax:[7]
  Provides a sales and use tax credit for up to 45 percent of wages paid to new employees who live within a rural county.

- Urban Enterprise Zone Jobs Credit against Sales Tax:[8]
  Provides a sales and use tax credit for up to 30 percent of wages paid to new employees who live within the enterprise zone.

[3] Sarasota County and the City of Miami Beach were designated energy economic zones prior to this deadline.
[4] Boundaries may be revised by local ordinance.
[5] Section 212.08(5)(g), F.S.
[6] Section 212.08(5)(g), F.S.
[7] Section 212.096, F.S.
[8] Section 212.096, F.S.

- Business Property Used in an Enterprise Zone:[9]
  Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.

- Community Contribution Tax Credit:[10]
  Provides 50 percent sales tax refund for donations made to local community development projects.

- Electrical Energy Used in an Enterprise Zone:[11]
  Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax:[12]
  Provides a corporate income tax credit for up to 45 percent of wages paid to new employees who live within a rural county.

- Urban Enterprise Zone Jobs Credit against Corporate Income Tax:[13]
  Provides a corporate income tax credit for up to 30 percent of wages paid to new employees who live within the enterprise zone.

- Enterprise Zone Property Tax Credit:[14]
  Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.

- Community Contribution Tax Credit:[15]
  Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects

Businesses located in an energy economic zone may also qualify for the following incentives and benefits:

- Qualified Target Industry Tax Refund Program:[16]
  Under current law, a qualified target industry business located in an enterprise zone may receive a refund of up to 6,000 per job. Further, OTTED may waive the job creation and wage requirements for any business located in an enterprise zone. The bill may allow qualified target industry businesses located in an energy economic zone to qualify for $6,000 per job tax refund and certain waivers of criteria.

- The "Road Fund":[17]
  The road fund is an incentive tool designed to alleviate transportation problems that adversely impact a business's decision to relocate or expand operations in a certain community. Grants are provided directly to local governments which then contract and build transportation projects. The bill provides that transportation projects in an energy economic zone must receive priority standing for funding.

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[9] Section 212.08(5)(h), F.S.
[10] Section 212.08(5)(p), F.S.
[11] Section 212.8(15), F.S.
[12] Section 220.181, F.S.
[13] Section 220.181, F.S.
[14] Section 220.182, F.S.
[15] Section 220.183, F.S. and Section 624.501, F.S.
[16] Section 288.106, F.S.
[17] Contracts for transportation projects under s. 288.063, F.S.

- Workforce Development:[18]
  Businesses located in an energy economic zone may be eligible for grants provided through the Quick Response Training Program and the Incumbent Worker Training Program.

- Exemption for machinery and equipment used in production of electrical or steam energy:[19]
  The exemption applies to the sales and use tax imposed by Chapter 212, F.S. The bill provides that businesses located in energy economic zones may qualify for this exemption if such electrical or steam energy is produced renewable sources.[20]

- Exemption from regulations related to a Development of Regional Impact:[21]
  The bill provides that a local governing authority may exempt certain developments in an energy economic zone from regulations related to a development of regional impact.

- Discounts on utilities and telecommunications:[22]
  The bill also authorizes the Public Service Commission to allow public utilities and telecommunications companies to grant discounts of up to 50 percent on rates for services to small businesses located in an energy economic zone. These discounts currently apply to enterprise zones and may be granted for a period of up to 5 years.

Any applicable requirements for employee residency for higher refund or credit thresholds must be based on employee residency in the energy economic zone or an enterprise zone. The bill also provides that other projects in an energy economic zone must be given priority ranking for other grants related to state energy programs.

A governing authority with jurisdiction over an energy economic zone may provide no more than $300,000 in incentives in any state fiscal year. If the $300,000 incentive cap is not fully used, the unused amount may be carried forward for no more than 5 years. The local governing authority is responsible for verifying eligibility, allocating incentives, and ensuring that incentives provided do not exceed the cap. Upon approving an incentive for an eligible business, the governing authority must provide the taxpayer with a certificate indicating the type and amount of the incentive provided. Further, the local governing authority must certify to the Department of Revenue (DOR) or OTTED, which businesses are eligible to receive state incentives and provide a copy of the certificate to both agencies.

The bill provides certain requirements for DOR related to the electronic processing of claims against the sales and use tax imposed by ch. 212, F.S. Excess credits may be carried forward for up to one year following the date the credit is initially claimed.

OTTED and DOR may adopt emergency rules to administer the provisions of the pilot program. The emergency rules remain in effect for 6 months and may be renewed while permanent rules are pending final adoption.

The bill delays the submission deadline for the DCA report and evaluation of the pilot program to February 15, 2015.

The bill provides an effective date of July 1, 2011.

[18] Section 288.047, F.S., and s. 445.003, F.S.
[19] Section 212.08(5)(c), F.S.
[20] As defined in s. 377.803, F.S., "Renewable energy" means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.
[21] Section 380.06, F.S.
[22] Section 290.007(8), F.S.

B. SECTION DIRECTORY:

Section 1. Amends the definition of "target industry business" in s. 288.106(2)(t), F.S., to provide special consideration for businesses that enhance trade and logistics. Modifies notification procedures for wage commitments.

Section 2. Revises s. 377.809, F.S., to implement the Energy Economic Zone Pilot Program and provide certain incentives.

Section 3. Amends s. 380.06, F.S., to exempt certain developments in an energy economic zone from regulations relating to a development of regional impact.

Section 4. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference has not evaluated the fiscal impact of this bill. However, the bill will likely have a negative recurring impact of $600,000 starting in FY 2012-13.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Providing additional focus on global trade and logistics may increase Florida's trade capacity and global logistics industry and encourage private sector economic activity. Further, the incentives provided to energy economic zones may encourage the development of businesses within these zones that specialize in renewable energy and green technology.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes OTTED and Department of Revenue to adopt emergency and permanent rules relating to the certification of incentives and processing of tax credits.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 5, 2011, the Finance and Tax Committee amended the bill to change the party responsible for making the wage commitment calculation notification from the local county governing board to the governing board of whichever local government entity is providing local financing.

The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendment.

On April 12, 2011, the Economic Affairs Committee adopted two amendments, which:

- Provides a technical change to the bill to ensure that the incorporation of global logistics as a qualified target industry does not create additional criteria for eligibility.
- Fully implements the Energy Economic Zone Pilot Program and provides access to certain existing economic development incentives.

The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendments.